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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,094

12/27/2004

Paulus Maria Smeets

2004-1048

9003

466 7590 03/16/2009

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EXAMINER

RASHID, MAHBUBUR

ART UNIT

PAPER NUMBER

3657

MAIL DATE

DELIVERY MODE

03/16/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/519,094	<b>Applicant(s)</b> SMEETS ET AL.	
	<b>Examiner</b> MAHBUBUR RASHID	<b>Art Unit</b> 3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,7-14 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-5, 7-14, 16-20 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/18/2009 has been entered.

### ***Response to Amendment***

Claims 1, 4, 5, 7-14 and 16-20 are amended.

Claim 21 is added as a new claim.

Claims 2, 3, 6 and 15 are canceled.

### ***Claim Objections***

Claim 21 is objected to because of the following informalities: in line 15 of the claim "to the tensile element" should be -to the tensile means- . Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 1, 4-5, 7-14, 16-20 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over W. R. Perry (US 2,322,466) in view of Hattori (US 4,552,549) and further in view of Bouteiller et al. (US 4,773,896) and/or David Bernard (WO 8301665 A1).

Regarding **claims 1, 4-5, 7-14, 16-20 and 21**, discloses a drive belt (fig. 1) provided with;

a tensile means (10), in which the tensile means is incorporated in the belt;

a plurality of transverse elements (combination of 11 and 26), each being provided with a slotted opening and disposed at radial sides of the tensile means (10), effecting a contact between the belt and a drive wheel;

Perry discloses all claimed elements as set forth above but fails to explicitly disclose the tensile means being one of a unidirectional and a metal sheet material as claimed. However, Hattori discloses a similar type drive belt (figs. 1-4) including a metal

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sheet material tensile means (1) (see also col. 2, lines 54-58). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tensile means of Perry of a metal or a steel material as taught by Hattori, because metal or steel material is stronger and more durable than rubber material and thus increasing the life of the belt.

The modified belt of Perry fails to disclose an intermediate body of elastically deformable material, but Bouteiller and Bernard disclose similar belts (see fig. 7 of Bouteiller and fig. 1 of Bernard) each comprising an intermediate body of elastically deformable material (see (3) of Bernard and the elastic body member on the bottom radial side of (C) and between the transverse elements (10) of Bouteiller) on the tensile means. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the belt of Perry with such intermediate body as taught by either Bouteiller or Bernard in order to reinforce the transverse elements and also making the belt strong and durable and thus increasing the life to the belt.

The modified belt of Perry discloses the claimed invention except for the specific values of the thickness and elasticity modulus of the tensile means and the intermediate body. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide such thickness and elasticity modulus of the tensile means and the intermediate body of the belt of Perry, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In *re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

***Response to Arguments***

Applicant's arguments with respect to claims 1, 4-5, 7-14, 16-20 and 21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAHBUBUR RASHID whose telephone number is (571)272-7218. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. R./  
Examiner, Art Unit 3657

/Robert A. Siconolfi/  
Supervisory Patent Examiner, Art  
Unit 3657